

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

JASON BAKER, JOHN BREWSTER, JOANN
BREWSTER, MAXINE CONDON, KAREN
FARRELL, BROOKS LIDDIARD, JANET
LIDDIARD, JAMES MCDERMOTT, HEIDI
MCDERMOTT, PAUL MOREY, DONETTA
MOREY, JOE TODD, BONNIE TODD, TOM
WHIPPLE and PAULINE WHIPPLE,

Plaintiffs,

v.

ANSCHUTZ EXPLORATION CORPORATION,
CONRAD GEOSCIENCE CORPORATION,
PATHFINDER ENERGY SERVICES, INC. and
JOHN and JANE DOES 1 through 100,

Defendants.

Case No. 6:11-cv-06119-CJS-JWF

**NOTICE OF DEFENDANTS' MOTION TO STRIKE
AND/OR DISMISS PURSUANT TO RULES 16(f) AND 37(b)**

PLEASE TAKE NOTICE that upon the accompanying Affidavit of Michael J. Guzman, and the accompanying Memorandum of Law, dated April 22, 2013, Defendants Anschutz Exploration Corporation and Pathfinder Energy Services, Inc. (collectively, "Defendants") hereby move this Court, before the Honorable Charles J. Siragusa, at the United States Courthouse, 100 State Street, Rochester, New York, at a date and time to be determined by the Court, for an Order pursuant to Federal Rules of Civil Procedure 16(f) and 37(b) to strike Plaintiffs' expert reports and/or dismiss the action for Plaintiffs' failure to obey the Modified Scheduling Order of September 25, 2012 (ECF No. 83). The basis and authority for this motion are set forth in the attached Affidavit and Memorandum of Law.

PLEASE TAKE FURTHER NOTICE that Defendants intend to file and serve reply papers pursuant to the schedule set forth in the Court's Modified Scheduling Order of April 11, 2013 (ECF No. 101).

Dated: April 22, 2013

By: /s/ Michael J. Guzman

Mark C. Hansen *pro hac vice*
Aaron M. Panner *pro hac vice*
Michael J. Guzman *pro hac vice*
KELLOGG, HUBER, HANSEN,
TODD, EVANS & FIGEL, P.L.L.C.
1615 M Street, N.W.
Suite 400
Washington, D.C. 20036
Tel. (202) 326-7900
Fax (202) 326-7999

Christopher D. Thomas
NIXON PEABODY LLP
1300 Clinton Square
Rochester, New York 14604
Telephone: (585) 263-1000
Fax: (585) 263-1600

*Counsel for Defendant Anschutz
Exploration Corporation*

By: /s/ Marc J. Shanker

Marc J. Shanker
MORGAN LEWIS & BOCKIUS LLP
101 Park Avenue
New York, N.Y. 10178
Tel. (212) 309-6000
Fax (212) 309-6001

*Counsel for Defendant Pathfinder Energy
Services, Inc.*